

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

WENDY CROOK,

Plaintiff,

v.

ROBERTO MEZA-MUROS, et al.,

Defendant.

§
§
§
§
§
§
§
§
§
§
§

Civil Action No. 3:23-CV-1096-x

MEMORANDUM OPINION AND ORDER

Pending before the Court is Defendant A&L Construction & Ready Mix's (A&L) motions for leave to designate responsible third parties. (Docs. 30, 31). No response was filed. After reviewing the motion and applicable law, the Court **GRANTS** A&L's motions. Accordingly, Albino Hernandez and 4 Brothers Rail Maintenance are designated as responsible third parties under Section 33.011(6) of the Texas Civil Practices and Remedies Code.

I. Factual Background

This suit arises out of a motor vehicle collision occurring within Ellis County, Texas, on September 14, 2021.¹ Plaintiff Wendy Crook alleges she was operating her vehicle southwest on North Kaufman when Defendant Roberto Meza-Muros, driving an 18-wheeler, failed to yield, turned left, and collided head-first into Crook resulting

¹ Doc. 1-5 at 3.

in injuries.² Crook brought suit in state court against Meza-Muros, N and N Transport Express Inc. (Meza-Muros's employer), A&L's Construction & Ready Mix (co-owner of Meza-Muros's vehicle), and CDE Quality Services LLC (co-owner of Meza-Muros's). N & N Transport Express Inc removed this case to this Court,³ and A&L filed a motion for leave to designate responsible third parties and a motion to designate responsible third parties.⁴

II. Analysis

As an initial matter, A&L denies any underlying liability to Crook.⁵ As a result, A&L moves to designate Albino Hernandez and 4 Brothers Rail Maintenance as responsible third parties, asserting that A&L has never met Meza-Muros, and, alternatively, A&L entrusted the driver's trailer to Hernadnez and 4 Brothers Rail Maintenance, not Meza-Muros. No response was filed. The Court obliges A&L's request.⁶

Under Texas law, "[a] defendant may seek to designate a person as a responsible third party."⁷ That designation, in turn, "obligates the trier of fact to assign a percentage of responsibility to each . . . defendant . . . and [responsible third

² *Id.*

³ Doc. 1.

⁴ Docs. 30, 31.

⁵ Doc. 31 at 2.

⁶ *Id.*

⁷ TEX. CIV. PRAC. & REM. CODE § 33.004(a).

party] with respect to each cause of action alleged.”⁸ Federal courts in Texas allow parties to designate responsible third parties in diversity cases.⁹ The Texas Rules of Civil Procedure’s text places the burden of proof as to why a court *shouldn’t* allow parties to designate a third party on the objecting party.¹⁰ For instance, the Rules’ two-part framework states that a court “shall grant” a defendant’s motion to designate a responsible third party “unless the objecting party establishes: (1) the defendant did not plead sufficient facts concerning the alleged responsibility of the person . . . ; and (2) after having been granted leave to replead, the defendant failed to plead sufficient facts concerning the alleged responsibility of the person.”¹¹

This case’s analysis is simple. As stated, the Rule’s text states that “[a] court shall grant leave to designate the named person as a responsible third party unless another party files an objection.”¹² No objection was filed. Thus, the Court grants A&L’s motion.

III. Conclusion

For the foregoing reasons, the Court **GRANTS** A&L’s Motion to Designate Third Party. (Docs. 30, 31). Accordingly, Albino Hernandez and 4 Brothers Rail Maintenance are designated as responsible third parties under Section 33.011(6) of

⁸ *Estate of Pruitt v. Asphalt Zipper, Inc.*, No. 21-50717, 2022 WL 2826450, at *3 (5th Cir. July 20, 2022).

⁹ *Davis v. Dall. Cnty.*, No. 3:07-CV-0318-D, 2007 WL 2301585, at *1 (N.D. Tex. Aug. 10, 2007) (Fitzwater, J.).


¹⁰ *See* TEX. CIV. PRAC. & REM. CODE § 33.004(g).

¹¹ *Id.* § 33.004(g)(1)–(2).

¹² *Id.* § 33.004(f).

the Texas Civil Practices and Remedies Code.

IT IS SO ORDERED this 31th day of May, 2024.



BRANTLEY STARR
UNITED STATES DISTRICT JUDGE